

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

**PAINTERS DISTRICT COUNCIL
NO. 2, et al.,**

Plaintiffs,

vs.

RCS CUSTOM PAINTING, LLC,

Defendant.

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Case No. 4:10cv2337 TCM

MEMORANDUM AND ORDER

This case is before the Court¹ on the motion of Plaintiffs, Painters District Council No. 2 and various Council trusts and trustees, to strike the answer and affirmative defenses filed by Defendant, RCS Custom Painting, LLC.

As noted by Plaintiffs in their motion, after filing its answer and affirmative defenses, Defendant filed for bankruptcy protection in September 2011. In February 2013, the Court was notified that the bankruptcy proceedings had concluded. Shortly thereafter, Defendant's counsel requested leave to withdraw as attorney in thirty days if no new counsel entered his or her appearance for Defendant or when an entry of appearance was filed, whichever occurred earlier. The Order granting that motion thirty days later noted that no new counsel had entered on behalf of Defendant, granted the motion for leave to withdraw, noted that a corporation may not proceed pro se, set a status conference in six weeks, and directed

¹The case is before the undersigned United States Magistrate Judge by written consent of the parties, including that signed on behalf of Defendant. See 28 U.S.C. § 636(c).

counsel to forward a copy of the Order to Defendant in care of two individuals, Robert Staff and Marilyn Tracy. Mail to Mr. Staff has since been returned as undeliverable.

As of this date, no entry of appearance has been filed on behalf of Defendant.

In **Goodman Distrib., Inc. v. Haaf**, 2012 WL 1309367, *2 (E.D. Mo. April 17, 2012), a motion to strike an answer and counterclaim was granted when a corporation was initially represented by counsel and then failed to obtain new counsel after the original counsel was granted leave to withdraw. The Court finds the reasoning in that case to be sound. Accordingly,

IT IS HEREBY ORDERED that Plaintiffs' motion to strike Defendant's answer and defenses [Doc. 28] is **GRANTED**.

IT IS FURTHER ORDERED that Plaintiffs shall, within fourteen (14) days of the date of this order, file appropriate motions for entry of default and for default judgment, supported by all necessary affidavits and documentation, as well as proposed orders for the Court's consideration.

/s/ Thomas C. Mummert, III
THOMAS C. MUMMERT, III
UNITED STATES MAGISTRATE JUDGE

Dated this 7th day of October, 2013.